

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Performance Measurements and Standards for)	
Unbundled Network Elements and Interconnection)	CC Docket No. 01-318
)	
Performance Measurements and Reporting)	
Requirements for Operations Support Systems,)	CC Docket No. 98-56
Interconnection, and Operator Services and)	
Directory Assistance)	
)	
Deployment of Wireline Services Offering)	
Advanced Telecommunications Capability)	CC Docket No. 98-147
)	
Petition of Association for Local)	
Telecommunications Services for Declaratory)	CC Docket Nos. 98-147, 96-98, 98-141
Ruling)	

**REPLY COMMENTS OF
ESCHELON TELECOM, INC.**

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SUMMARY OF POSITION

Eschelon Telecom, Inc. (Eschelon) supports the positions taken by McLeodUSA in its initial comments in this proceeding and the metrics submitted by WorldCom. Eschelon agrees that it is fundamental that self-executing performance metrics be established to ensure that Incumbent Local Exchange Carriers (ILECs) provide Competitive Local Exchange Carriers (CLECs) with just, reasonable, and nondiscriminatory access to network elements as required by the Act. Eschelon supports the adoption of minimum federal performance metrics and self-executing remedies to act as a floor and fill any gaps left by standards established by state public utility commissions. Federal standards should supplement and not supplant state standards for ILECs. Eschelon also urges the Commission to affirm the 90-day physical collocation provisioning interval established by the FCC in the *Collocation Reconsideration Order*.¹ It is imperative that ILECs not be permitted to delay CLECs collocation builds by establishing unnecessarily long provisioning intervals.

INTRODUCTION

Eschelon submits these reply comments in response to the initial comments filed by parties in the Federal Communications Commission's (Commission or FCC) Notice of Proposed Rulemaking (NPRM) in the above-captioned proceeding. The Commission has requested comment on whether it should adopt performance measurements and standards for evaluating ILEC performance in pre-ordering, ordering, provisioning, and maintenance of facilities and services to CLECs. The Commission also requested comments in this proceeding on the issues

¹ *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket Nos. 98-147 and 96-98, Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 (2000) (*Collocation Reconsideration Order*).

contained in the *Collocation Reconsideration Order* and Clarification petitions in CC Docket Nos. 98-147 and 96-98 concerning the 90-day physical collocation interval and whether it should be modified.

Eschelon provides integrated voice, data, and Internet services to small- and medium-size businesses. Eschelon offers a comprehensive line of products ranging from telephone systems to advanced voice and high-speed Internet services. Eschelon employs more than 900 telecommunications/Internet professionals and currently provides services in Arizona, Colorado, Minnesota, Oregon, Utah, and Washington as well as Nevada. Eschelon began as a reseller but is moving to provide facilities-based local exchange service using its own switches and collocations. Eschelon does not own its own fiber; it leases facilities. Eschelon owns and operates switches in Arizona, Colorado, Minnesota, Oregon, Utah, and Washington.

Eschelon endorses the comments submitted by McLeodUSA in this proceeding. If the Commission decides to adopt UNE performance standards and measures, the standards should be used to fill any gaps in state commission standards. They should represent a floor beneath which no ILEC may fall and not replace or supersede more stringent state standards.

The Commission should use this opportunity to set a baseline standard for physical collocation intervals as set out in the Performance Metrics submitted by WorldCom. The 90-day standard set forth in the *Order on Reconsideration* in CC Docket No. 98-147 is reasonable and should be affirmed in this proceeding. The interim waivers granted to ILECs should be explicitly terminated, as 90 days is ample time to provision unforecasted collocations absent extraordinary circumstances.

ARGUMENT

Eschelon agrees with McLeodUSA that should the FCC decide to implement national performance measurements, the metrics submitted by WorldCom constitute the minimum level necessary to foster competition in the local telecommunications market. This minimum set of performance standards for unbundled network elements (UNE) will help guarantee that ILECs provide CLECs with service at a baseline level in states that have not fully implemented effective UNE metrics of their own.

The Commission should affirm its decision to require ILECs, at a minimum, to provide physical collocation to CLECs within 90 days of application. After its decision to do so in the *Collocation Reconsideration Order*, Qwest petitioned the Commission for a waiver of the 90 day interval in certain circumstances. The Commission granted Qwest an interim waiver of the 90 day interval in situations where a CLEC has failed to provide a forecast for the collocation. In those circumstances the Commission has permitted Qwest on an interim basis to increase its collocation interval by up to 60 days. The Commission directed Qwest “to use its best efforts to minimize any such increases. . . .” of the time interval. *Memorandum Opinion and Order* in CC Docket No. 98-147 (November 7, 2000) at p. 9.

Qwest has taken this interim waiver by the FCC and used it as a basis to propose increased collocation interval periods for unforecasted collocation applications on a permanent basis through its SGAT offerings. Qwest should not be able to delay a CLEC’s collocation build when facilities are available to provide the collocation regardless of whether a forecast was provided by a CLEC. However, Qwest’s SGAT would permit this delay. And contrary to the clear directive by the FCC, Qwest does not propose to minimize the increased interval in any way. Indeed, it is only if Qwest takes even more time beyond its proposed additional 30 days

that Qwest indicates it will use its best efforts to minimize additional time. In other words, Qwest has now defined 120 days as the standard interval for any unforecasted collocation and proposes to take even more time beyond that in exceptional circumstances to provision the collocation. See, e.g. Qwest's January 30, 2002 Oregon SGAT at 8.4.3.4.1 and 8.4.3.4.3.

If facilities are available, ILECs should provision unforecasted collocations within 90 days. There is no reason for delay beyond 90 days based on the arbitrary basis of whether or not a forecast was provided by a CLEC. ILECs should not be permitted to unnecessarily delay competitors from being able to provide service to customers. Allowing ILECs to delay collocations beyond the standard 90-day time frame when ILECs have facilities in place to provide the requested collocation serves nothing more than to punish a CLEC for faulty forecasting. ILECs should provide unforecasted collocations within 90 days when no major infrastructure modifications are necessary just as they provide forecasted collocations.

The Commission should terminate the waivers granted to ILECs in the November 7, 2000 *Memorandum Opinion and Order* and affirm that ILECs must provide CLECs with physical collocation within 90 days. If extraordinary circumstances arise in an unforecasted collocation application such as a need for major infrastructure modifications, ILECs may petition state commissions for additional time as necessary. It is imperative that CLECs not be kept from the marketplace based on collocation delay tactics by ILECs. The Commission should set a standard for collocation provisioning of 90 days for all physical collocations. States should remain free to set shorter time intervals if warranted on a state by state examination of what is achievable by ILECs in each state. Eschelon supports the WorldCom collocation metric attached to WorldCom's initial comments in this proceeding.

CONCLUSION

For the reasons set forth above, Eschelon requests the Commission to adopt a minimum set of performance metrics that would only be effective in the absence of more stringent state standards adopted by state public utility commissions. As part of these standards the Commission should affirm the 90 day provisioning interval for physical collocations established in its *Collocation Reconsideration Order*.

Respectfully submitted,

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